## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

n re the Application of: ENDO, Tamio, et al.

Group Art Unit: 1746

Serial No.: 10/510,244

Examiner: Not Yet Assigned

Filed: October 15, 2004

P.T.O. Confirmation No.: 2227

Sir:

RESIST FILM REMOVING APPARATUS, RESIST FILM REMOVING METHOD. ORGANIC MATTER REMOVING APPARATUS AND ORGANIC MATTER

REMOVING METHOD

# **RENEWED PETITION UNDER 37 CFR 1.181**

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Date: July 16, 2008

In response to the Decision on Petition dated May 16, 2008, a copy of which is attached, applicants respectfully request the Commissioner to withdraw the Notice Of Abandonment and revive the above-identified application. It is submitted that the abandonment was unavoidable.

In the above-noted Decision, it was indicated that applicants must provide a full office docket record for all responses due in the USPTO on 31 October 2006, the date on which a response to the petition decision was due. Attached hereto is such a full office record for the responses due on that date labeled as Exhibit A. To the best of the knowledge of the undersigned, this record is accurate and complete.

U.S. Appln. Serial No.: 10/510,244 Petition dated May 16, 2008 July 16, 2008

In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

Donald W. Hanson Attorney for Applicants Reg. No. 27,133

Atty. Docket No. 040473 Suite 400, 1420 K Street, N.W. Washington, D.C. 20005 (202) 659-2930 DWH/rab 23850

PATENT TRADEMARK OFFICE

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P.O. Box 1450 Alexandria, VA 22313-1450

United States Patent and Trademark Office

Commissioner for Patents

In re Application of: ENDO, Tamia, et al.

U.S. Application No.: 10/510,244

PCT No.: PCT/JP03/04750

**WASHINGTON DC 20005** 

International Filing Date: 15 April 2003

Priority Date: 16 April 2002 Atty Docket No.: 040473

**RESIST FILM REMOVING** For:

> APPARATUS ... AND METHOD OF REMOVING ORGANIC MATTER

DECISION ON PETITION TO WITHDRAW HOLDING OF **ABANDONMENT** (37 CFR 1.181)

This decision is issued in response to the "Request For Withdrawal Of Holding Of Abandonment' filed 03 April 2008, treated herein under 37 CFR 1.181. No petition fee is required.

# **BACKGROUND**

The procedural background for this application was set forth in the previous decisions mailed herein on 27 January 2006 and 31 August 2006. These decisions dismissed without prejudice applicants' petition under 37 CFR 1.47(a) requesting acceptance of the declaration without the signature of all the applicants. The decision mailed 31 August 2006 provided applicants with an extendable two-month response deadline, and it indicated that the failure to file a timely and proper response would result in abandonment of the application.

Applicants did not file a response to the 31 August 2006 decision during the extendable time period. Accordingly, this application became abandoned at midnight on 31 October 2006.

On 07 February 2008, the USPTO mailed a "Notice of Abandonment" confirming the abandonment of the application.

On 03 April 2008, applicants filed the "Request For Withdrawal Of Holding Of Abandonment" considered herein. The submission asserts that the holding of abandonment should be withdrawn because applicants did not receive the petition decision upon which the abandonment is based.

#### **DISCUSSION**

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to demonstrate the failure to receive an Office communication:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact the a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The present submission includes the required statement from the practitioner that the file jacket and docket records of the firm have been searched, and that this search indicates that the petition decision mailed 31 August 2006 was not received.

With respect to the docket records requirement, applicants have provided a copy of counsel's incoming mail log from 31 August 2006 to September 30 2006. However, a mail log of incoming USPTO communications is not sufficient to satisfy the docket records requirement. Rather, as discussed in the MPEP, applicants must provide the full office docket record for all responses due in the USPTO on 31 October 2006, the date on which a response to the petition decision was due.

Based on the above, applicants have not satisfied the requirements for a petition to confirm the failure to receive an Office communication. Accordingly, at the present time it cannot be concluded that the petition decision mailed 31 August 2006 was not received by applicants. Withdrawal of the abandonment is therefore not appropriate at the present time.

Because the application remains abandoned, applicants' supplemental submission with respect to the petition under 37 CFR 1.47(a) has not been considered herein.

## **CONCLUSION**

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include the required docket records, as discussed above and n the MPEP.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross

Attorney Advisor

Office of PCT Legal Administration

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(571) 272-3296

Facsimile:

(571) 273-0419

Page: 1	App Date Atty/Obt Iss Date	15-Aug-2000 WLB A	11-Sep-2002 DRC A A A A A A A A A A A A A A A A A A A	15-Aug-2003 WLB A	20-Feb-2003 JAM 15-Mar-2005 A	13-Aug-2004 MRQ Q	12-Jan-2005 JAM  We filed today  (D)
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